

REMARKS

In the above-identified office action the Examiner has rejected claims 1, 4-6, 8, 9, 11 and 12 as being anticipated by the patent to Atkinson. Further, claims 1-3, 6-9, 11-15, and 18-20 have been rejected as anticipated by the patent to Stanish. Claims 10 and 19 have been rejected as unpatentable over the combination of Stanish in view of Murdick et al. and claims 16 and 17 have been rejected as unpatentable over the combination of Stanish in view of Atkinson.

Applicant has amended the claims so that they now should define over the art of record. More particularly, Applicant now claims that the utensil is a one piece rigid utensil having a scoop portion with first or second points of contact with the ribbed structure and then a third point of contact on the contact area. Atkinson does not show a one-piece rigid utensil but rather a utensil, which must be flexible at a midpoint on the handle to allow its retention within the cap. Further, Atkinson does not have three points of contact in the cap for holding the utensil in the cap, with each point of contact providing the means for retention of the utensil within the cap, as now recited in the claims. Further, as recited in claim 13, the three points of contact ensure that the utensil is securely held within the cap, a feature not available from Atkinson.

Stanish also does not have a scoop portion nor does it have the three points of contact, which ensure that the utensil is securely held within the cap. Also, Stanish does not have a handle portion with first or second ends nor a scoop section with first or second ends as recited in claim 13. As a result, neither Stanish nor Atkinson can be said to anticipate the subject invention.

With regards to claims 10 and 19 insofar as both depend from claims 1 and 13, respectively, and thus incorporate the elements of the three points of contact within the cap, claims 10 and 19 cannot be obvious therefrom.

The same holds true for claims 16 and 17, which also recite the three points of contact within the cap for securely holding the utensil therein. As a result, claims 16 and 17 should be patentable over Stanish in view of Atkinson.

Applicant hereby requests reconsideration and reexamination thereof.

With the above amendments and remarks, this application is considered ready for allowance and Applicant earnestly solicits an early notice of same. Should the Examiner be of the opinion that

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a telephone conference would expedite prosecution of the subject application, he is respectfully requested to call the undersigned at the below-listed number.

Respectfully submitted,

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